

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

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UNITED STATES OF AMERICA, :

Plaintiff, : CASE NO. 1:05-CR-137-2

-vs- : Initial Appearance

GARY MYLES, : Tuesday, October 31, 2006  
1:49 p.m.

Defendant. : Cincinnati, Ohio

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE TIMOTHY S. BLACK, MAGISTRATE JUDGE

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For the Plaintiff: Timothy D. Oakley, Esq.  
Assistant United States Attorney  
Karl P. Kadon, III, Esq.  
Special Assistant United States Attorney  
221 East Fourth Street, Suite 400  
Cincinnati, Ohio 45202

For the Defendant: Richard Smith-Monahan, Esq.  
Assistant Federal Public Defender  
36 East Seventh Street, Suite 2000  
Cincinnati, Ohio 45202

Court Reporter: Julie A. Wolfer, RDR, CRR

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PROCEEDINGS

(In open court at 1:49 p.m.)

THE COURT: Good afternoon, ladies and gentlemen.

Here on the record on the criminal docket. A number of matters set for initial appearance and arraignment.

Who appears on behalf of the United States, and what case do you wish to call first?

MR. OAKLEY: Good afternoon, Your Honor. Tim Oakley for the United States.

THE COURT: Mr. Oakley.

MR. OAKLEY: The first matter on the list is for initial appearance on an indictment, the United States versus Gary Myles.

THE COURT: Very well.

Mr. Myles will approach and join counsel at the podium.

Mr. Myles is present in the courtroom in the custody of the marshal in shackles.

We're here for the limited purpose of a proceeding called initial appearance.

Assistant Public Defender is standing with Mr. Myles.

Good afternoon, counsel.

MR. SMITH-MONAHAN: Good afternoon.

THE COURT: Initial appearance is a limited proceeding. I'm required to tell Mr. Myles his rights.

1           You have the right to remain silent. I encourage you  
2 to maintain that right. Anything you say could be used against  
3 you. Let this experienced lawyer help you at this limited  
4 proceeding.

5           You have a right to a lawyer at this proceeding and  
6 all future proceedings. The Public Defender is with you today.  
7 If you qualify for appointed counsel at the government's  
8 expense due to limited finances, the Court will appoint counsel  
9 to assist you.

10           In that regard, is there a financial affidavit being  
11 proffered?

12           MR. SMITH-MONAHAN: I don't know. Pretrial -- it does  
13 not appear Pretrial has had an opportunity yet to interview  
14 these individuals.

15           THE COURT: Are you all going to be able to assist, if  
16 he qualifies?

17           MR. SMITH-MONAHAN: Your Honor, we already represent  
18 Kofi Cooper, a co-defendant in this matter, so we'll need to  
19 find CJA attorneys for all of the defendants charged in this  
20 case.

21           THE COURT: Very well.

22           As soon as I'm provided with a financial affidavit, if  
23 he qualifies, the Court will appoint an attorney to represent  
24 him in this case.

25           He's entitled to know the gist of the offenses

1     alleged.

2             What is the gist of the offenses alleged?

3             MR. OAKLEY: It's Count 1 of the indictment charging  
4     Mr. Myles with the rest of the individuals with conspiracy to  
5     distribute heroin and cocaine.

6             THE COURT: Very well.

7             It's an indictment, a second superseding indictment.  
8     There will be no preliminary hearing.

9             We may well have exhausted what we're able to do today  
10    at this limited proceeding.

11            Is there any other items from the defendant's  
12    perspective that the Court has overlooked, counsel?

13            MR. SMITH-MONAHAN: No, Your Honor. We would just  
14    want to set a date for arraignment so I could consult with the  
15    CJA attorney, make sure they'll be available to --

16            THE COURT: Want to do arraignment today, it requires  
17    me to ask if they've got a copy of the charging instrument,  
18    whether they want it read, and what the plea is.

19            MR. SMITH-MONAHAN: I've discussed the matter of  
20    arraignment with each of these individuals, Your Honor, and  
21    they would prefer to have an attorney with whom they can  
22    consult before proceeding with arraignment. So with the  
23    Court's permission, request to set a date for arraignment.

24            THE COURT: Very well.

25            In terms of detention, it's academic, perhaps.

1 MR. OAKLEY: Yes, sir.

2 THE COURT: He's serving a sentence, not eligible for  
3 parole in 2024. Detention is moot. The defendant will be  
4 detained.

5 Set it for initial -- or for arraignment on a date  
6 specific. Does the Court wish to propose a date?

7 COURTROOM DEPUTY: Well, the next docket for Judge  
8 Hogan is the 15th of November. Otherwise, we could set  
9 something else.

10 THE COURT: The 15th of November work, or is that too  
11 long from the defendant's perspective, counsel?

12 MR. SMITH-MONAHAN: That is two weeks from today, Your  
13 Honor. I don't -- I don't believe that's too long. It's a  
14 fairly complex case. I think that would give the CJA attorney  
15 time to get involved and get some of the details.

16 THE COURT: Very well. Set it for arraignment on  
17 November 15th at 1:30.

18 Is that right?

19 COURTROOM DEPUTY: Yes.

20 THE COURT: Before Magistrate Judge Hogan.

21 That may well dispose of what we can do.

22 You need to get the financial affidavit put together  
23 so the Court can appoint counsel.

24 MR. SMITH-MONAHAN: Yes, sir.

25 THE COURT: He can step down, unless there's something

1 further.

2 MR. SMITH-MONAHAN: No, Your Honor.

3 THE COURT: Very well.

4 (Proceedings concluded at 1:53 p.m.)

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13 C E R T I F I C A T E

14 I, Julie A. Wolfer, the undersigned, do hereby  
15 certify that the foregoing is a correct transcript from the  
16 record of the proceedings in the above-entitled matter.

17 s/Julie A. Wolfer  
18 Julie A. Wolfer, RDR, CRR  
19 Official Reporter  
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